



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 15 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chuck Long
Operations Manager
Consolidated Grain and Barge Company
5130 Port Road
Jeffersonville, Indiana 47130

Dear Mr. Long:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Consolidated Grain and Barge Company (you or CGB) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated the Indiana State Implementation Plan at your Jeffersonville, Indiana facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil action.

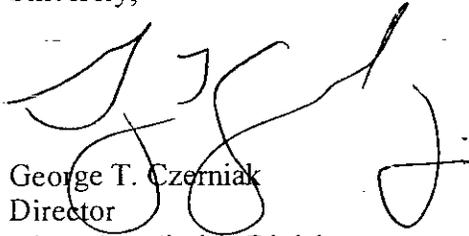
We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Shannon Downey. You may call her at (312) 353-2151 if you wish to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

EPA hopes that this NOV will encourage CGB's compliance with the requirements of the Clean Air Act.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Czerniak", written over the typed name.

George T. Czerniak
Director
Air and Radiation Division

cc: Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management

Enclosures: Notice of Violation EPA-5-13-IN-07

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)

Consolidated Grain and Barge Company)
Jeffersonville, Indiana)

NOTICE OF VIOLATION

EPA-5-13-IN-07

Proceedings Pursuant to)
Section 113(a)(1) of the)
Clean Air Act, 42 U.S.C.)
§ 7413(a)(1))

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency is issuing this Notice of Violation (NOV) under Section 113(a)(1) of the Clean Air Act (the Act or CAA), 42 U.S.C. § 7413(a)(1). EPA finds that Consolidated Grain and Barge Company (you or CGB) has violated the federally-enforceable and applicable provisions of the Indiana State Implementation Plan (SIP) as follows:

Statutory and Regulatory Background

Clean Air Act

1. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards.
2. Section 113(a) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan, regulation, or permit.

Indiana SIP Requirements

A. Opacity Requirements

3. On July 16, 2002, EPA approved revised opacity rules set forth in the Indiana Administrative Code at Ind. Admin. Code tit. 326, r. 5-1 to 5-5, as part of the SIP for the State of Indiana. *See* 67 Fed. Reg. 46589. The federally enforceable requirements of Ind. Admin. Code tit. 326, r. 5-1 to 5-5 are set forth in the Indiana SIP at 326 IAC 5-1.
4. The Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)(A)] requires that opacity shall not exceed an average of thirty percent (30%) in any one six-minute averaging period for sources listed in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)].

5. The Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)] states that the opacity limitations set forth in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)] apply to facilities in the areas set forth therein, including Jeffersonville Township in Clark County, Indiana. *See* the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)(1)].
6. The Indiana SIP at 326 IAC 6.5-1 [Ind. Admin. Code tit. 326, r. 6.5-1-2(2)(C)] requires that all emissions from grain elevator affected areas, operations, equipment, and systems shall not exceed twenty percent (20%) opacity as determined under 326 IAC 5-1.

B. Federally Enforceable State Operating Permit Requirements

7. On June 28, 1989, EPA issued guidance on federally enforceable state operating permits (FESOP) establishing federally enforceable limits in facilities permits. *See* 54 Fed. Reg. 27274.
8. On October 25, 1994, the Indiana Department of Environmental Management (IDEM) submitted to EPA a proposed revision to the Indiana SIP establishing a FESOP program in Indiana.
9. On August 18, 1995, EPA approved Indiana's FESOP program as part of the federally enforceable Indiana SIP. *See* 60 Fed. Reg. 43008. Indiana's FESOP program is codified at Ind. Admin. Code tit. 326, r. 2-8-1 through 2-8-17, and set forth in the Indiana SIP at 326 IAC 2-8-1 through 2-8-17.
10. Pursuant to the Indiana SIP at 326 IAC 2-8-2, a source required by the Indiana SIP at Ind. Admin. Code tit. 326, r. 2-7-2(a) to have a Part 70 permit (Indiana's federally approved Title V operating permit program) may apply to IDEM for a FESOP.
11. The Indiana SIP at 326 IAC 2-8-4(1) requires that all FESOP permits contain emission limitations and standards assuring compliance with all applicable requirements in effect at the time of the FESOP issuance.
12. Pursuant to the Indiana SIP at 326 IAC 2-8-6(b), all terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit, are enforceable under the CAA by EPA.
13. Pursuant to 40 C.F.R. § 52.23, a person failing to comply with any permit limitation or condition contained within a permit to operate issued under an EPA-approved regulatory program that is incorporated into a SIP, shall render that person in violation of the SIP, thus making that person subject to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413.

CGB's Facility

14. CGB owns and operates a grain elevator located at 5130 Port Road, Jeffersonville, Indiana (Facility). The Facility is located in Jeffersonville Township in Clark County, Indiana, thus making the Facility a source listed in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)].
15. Consequently, the Indiana SIP opacity limitations set forth at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)] apply to the Facility.
16. Opacity is used as a surrogate for PM emissions and provides qualitative information on the operation and maintenance of particulate control equipment and the effectiveness of particulate control strategies at a facility.
17. From 2005 to present, Clark County was designated as a non-attainment area for the 1997 PM_{2.5} standard. *See* 76 Fed. Reg. 12860 (March 9, 2011).
18. On August 30, 2012, IDEM issued FESOP No. F019-21478-00001 (CGB's FESOP) to CGB for the Facility.
19. CGB owns and operates a baghouse, identified in CGB's FESOP as BH1, which controls PM emissions from the grain unloading and handling operations.
20. Emissions from CGB's Facility are subject to the opacity regulations in the Indiana SIP at 326 IAC 5-1, as set forth in CGB's FESOP.
21. Part C.2(a) of CGB's FESOP incorporates the opacity limit set forth in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)(A)] requiring CGB to limit opacity emissions at its entire source to an average of thirty percent (30%) in any one six-minute averaging period.
22. Part D.1.2(d)(2) of CGB's FESOP incorporates the grain elevator equipment maintenance procedures set forth in the Indiana SIP at 326 IAC 6.5-1 [Ind. Admin. Code tit. 326, r. 6.5-1-2(2)(B)] requiring CGB to eliminate or minimize particulate matter emissions from equipment or a system caused by among other things, malfunctions, not following designed operating specifications, or a lack of properly trained and experienced personnel.
23. Part D.1.2(d)(3) of CGB's FESOP incorporates the opacity limit set forth in the Indiana SIP at 326 IAC 6.5-1 [Ind. Admin. Code tit. 326, r. 6.5-1-2(2)(C)] requiring CGB to limit opacity emissions from the affected areas, operations, equipment, and systems to less than twenty percent (20%) opacity.
24. Section D.1.6 of CGB's FESOP requires that "[w]hen for any one reading, the pressure drop across the baghouse [BH1] is outside the normal range [0.5 and 6.0 inches water], the Permittee shall take a reasonable response... Failure to take response steps shall be considered a deviation from this permit."

Violations

25. On February 12, 2012, a certified EPA inspector read opacity at the Facility's barge loading area in accordance with 40 C.F.R. Part 60, Appendix A, Reference Method 9. The inspector's readings are shown in Attachment 1 to this NOV.
26. On February 12, 2012, the Facility's opacity emissions from its barge loading area violated the opacity limits in Parts C.2(a) and D.1.2(d)(3) of CGB's FESOP and the applicable Indiana SIP opacity limitations at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)(A)] and 326 IAC 6.5-1 [Ind. Admin. Code tit. 326, r. 6.5-1-2(2)(C)].
27. On February 12, 2012, a certified EPA inspector read opacity at the Facility's truck unloading area in accordance with 40 C.F.R. Part 60, Appendix A, Reference Method 9. The inspector's readings are shown in Attachment 2 to this NOV.
28. On February 12, 2012, the Facility's opacity emissions from its truck unloading area violated the opacity limit found in Part D.1.2(d)(3) of CGB's FESOP and the applicable Indiana SIP opacity limitations at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-2(2)(A)] and 326 IAC 6.5-1 [Ind. Admin. Code tit. 326, r. 6.5-1-2(2)(C)].
29. On February 12, 2012, EPA inspectors observed visible emissions coming from the stack of BH1 at the Facility. These visible emissions violated the grain elevator equipment maintenance requirements set forth in Part D.1.2(d)(2) of CGB's FESOP.
30. On September 28, 2011, CGB had a pressure drop reading across BH1 at the Facility, of 6.2 inches water, which is outside the normal range [0.5 and 6.0 inches water] set forth in Section D.1.6 of CGB's FESOP. CGB failed to take any response steps, thus deviating from the requirements in Section D.1.6 of CGB's FESOP.
31. On July 14, 15, and 16, 2010, CGB had pressure drop readings across the baghouse at the Facility of 8.2, 8.4, and 8.4 inches water, respectively, which is outside the normal range [0.5 and 6.0 inches water] set forth in Section D.1.6 of CGB's FESOP. CGB failed to take any response steps, thus deviating from the requirements in CGB's FESOP.
32. CGB's failure to comply with the opacity limits, grain elevator equipment maintenance requirements, and baghouse pressure drop response requirements established in CGB's FESOP violated the Indiana SIP and Section 113 of the CAA.

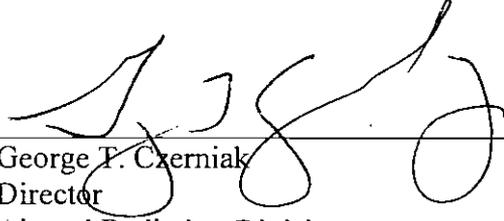
Environmental Impact of Violations

33. Violation of opacity standards, grain elevator equipment maintenance requirements, and baghouse pressure drop response requirements increases public exposure to unhealthy particulate matter. Particulate matter, especially fine particulates, contain microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:

- irritation of the airways, coughing, and difficulty breathing;
- decreased lung function;
- aggravated asthma;
- chronic bronchitis;
- irregular heartbeat;
- nonfatal heart attacks; and
- premature death in people with heart or lung disease.

Date

MAY 15, 2013



George T. Czerniak
Director
Air and Radiation Division

Attachment 1

Barge Loading Opacity Readings CGB Jeffersonville, IN Facility					
February 12, 2013					
Start Time:	3:48pm	End Time:	4:00pm		
	% Opacity				6 min
Minute/Second	0	15	30	45	Avg
1	60	70	70	80	
2	85	80	75	85	
3	80	60	70	60	
4	70	80	85	70	
5	90	90	90	100	
6	85	80	95	85	78.6%
7	80	80	70	75	
8	70	75	85	85	
9	90	70	80	80	
10	75	100	80	90	
11	85	90	90	80	
12	90	95	85	70	82.1%

Total observation time - 12 minutes (3:48 - 04:00 PM)

Total time exceeding standard from 3:48 - 04:00 PM - 12 minutes

Attachment 2

Truck Unloading Opacity Readings CGB Jeffersonville, IN Facility				
February 12, 2013				
Start Time:	3:35pm	End Time:	3:45pm	
	% Opacity			
Minute/Second	0	15	30	45
1	5	20	30	0
2	0	0	0	15
3	20	15	0	NR
4	NR	NR	NR	NR
5	0	0	15	20
6	25	30	20	25
7	30	40	25	20
8	5	5	0	5
9	5	0	0	0
NR = No Reading				

Total observation time - 10 minutes (3:35 - 03:45 PM)

Total time exceeding standard from 3:35 - 03:45 PM - 2 minutes

CERTIFICATE OF MAILING

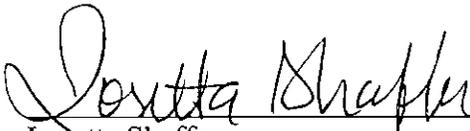
I, Loretta Shaffer, certify that I sent a Notice of Violation, EPA-5-13-IN-07, by Certified Mail, Return Receipt Requested, to:

Chuck Long
Operations Manager
Consolidated Grain and Barge Company
5130 Port Road
Jeffersonville, Indiana 47130

I also certify that I sent a copy of the Notice of Violation, EPA-5-13-IN-07, by First Class Mail to:

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue, room IOCN 1003
Indianapolis, Indiana 46206-6015

on the 17 day of May 2013.



Loretta Shaffer
Administrative Program Assistant
AECAB, PAS Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7667 5727